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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,307	10/22/2001	Romuald Pawluczyk	07121.0002U1	9312

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EXAMINER

GEISEL, KARA E

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 01/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicant(s)

10/021,307

PAWLUCZYK, ROMUALD

Examiner

Kara E Geisel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 is/are allowed.
- 6) ☒ Claim(s) 4-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Preliminary Amendment***

The preliminary amendment, filed on October 22, 2001, has been entered into this office action.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller et al. (USPN 6,373,568).

In regards to claim 4, Miller discloses a light source (fig. 1, 1) for a photodetector array based spectrometer (columns 8-9, lines 55-67 and 1-10 respectively) comprising a primary light source (fig. 1, 10a-10j) producing a primary spectral output which results in a characteristic system response curve, said light source further including at least one secondary light source (fig. 1, 10a-10j) which combines with said primary spectral output (column 3, lines 35-45). Applicant has not provided structure necessary to accomplish “whereby, said combined spectral output results in a more uniform system response curve that is flatter than the system response curve obtained when a primary light source alone is used”. Therefore, the lack of structural limitations fails to distinguish applicant’s invention over prior art.

In regards to claim 5, a light source for a photodetector array based spectrometer is disclosed above. Furthermore, the secondary light source can be a broadband light source (column 7, lines 62-66), having a shaping filter (fig. 1, 12a-12j and column 4, lines 43-47).

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In regards to claim 6, a light source for a photodetector array based spectrometer is disclosed above. Furthermore, the secondary light source may be a narrow band light source (column 7, lines 62-67 and column 8, lines 23-26).

In regards to claim 7, a light source for a photodetector array based spectrometer is disclosed above. Furthermore, the narrow band light source may be a laser (column 7, lines 62-67 and column 8, lines 23-26).

In regards to claim 8, a light source for a photodetector array based spectrometer is disclosed above. Furthermore, multiple light sources may be combined by means of multiple branches of fiber optic bundles (column 8, lines 1-26).

***Allowable Subject Matter***

Claims 1-3 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

As to claim 1, the prior art of record, taken alone or in combination, fails to disclose or render obvious a method for improving system response of a photodetector array based spectrometer, having a main light source comprising the steps of: determining a system response curve over a spectral range, identifying at least one spectral band wherein the system response curve falls below a predetermined value, adding at least one secondary light source with an output complimentary to the spectral band identified, so there is produced a combined spectral output which provides a modified system response curve which is at or above the predetermined value.

***Additional Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art made of record is Boostrom (USPN 4,798,464) and Nogami (USPN 4,715,712).

Boostrom discloses a photodetector array spectrometer with a primary light source and a secondary light source. The light sources each have a specific output that, when combined, produces a

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more uniform radiation over a longer wavelength range. Filters are used to control stray light and other errors in the system.

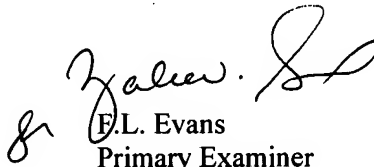
Nogami discloses a means to smooth out the spectral response curve of a spectroscopy system having a photodetector array. By using two detector arrays and a processor, the system can use an averaging operation to increase the signal to noise ratio and smooth out the system response curve.


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kara E Geisel whose telephone number is 703 305 7182. The examiner can normally be reached on Monday through Thursday, 8am to 5pm and every other Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 703 308 4881. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9318 for regular communications and 703 872 9319 for After Final communications. For inquiries of a general nature, the Customer Service fax number is 703 872 9317.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1782.

  
F.L. Evans  
Primary Examiner  
Art Unit 2877

  
KEG  
January 2, 2003